IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 13645 of 1999

Between:

D.R.Ramesh Kumar, S/o D.R.Swamy,
R/o H.No.11-3-664/94, Ashoknagar,
Parsigutta, Hyderabad

..... PETITIONER

AND

1 Inspector General of Police, Central Reserve Police Force,
Southern Sector, Banjara Hills, Hyderabad
2 Deputy Inspector General of Police, Central Reserve Police Force,
Hyderabad
3 Addl. Deputy Inspector General of Police, Group Centre, Central Reserve
Police Force, Hyderabad - 500 005.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the 2nd respondent in office order No.P.VIII-I/99-EC-II dt: 21-4-99 enhancing the punishment imposed by the disciplinary authority as illegal, arbitrary and violative of the principles of natural justice and to set -aside the same.

Counsel for the Petitioner: MR.J.V.PRASAD

Counsel for the Respondents: Mr. K. Narahari

The Court made the following :

O R D E R :

Heard the learned counsel for the petitioner and the learned standing counsel appearing on behalf of the respondents.

The petitioner herein, who has been in service with the respondents, filed this Writ Petition, *inter alia*, seeking for a writ of mandamus challenging the impugned orders dated 21.4.1999 of the second respondent wherein the earlier orders of the third respondent dated 07.07.1998 imposing punishment were varied from compulsory retirement to removal from service.

The case of the petitioner is that at the time of appointment, he has shown his age correctly and subsequently it was supported by Transfer Certificate to the effect that his date of birth is 15.07.1952. In spite of the same, a show cause notice was issued on 23.02.1998 and this was followed by order of compulsory retirement dated 07.07.1998. However, subsequently in March, 1999, a fresh show cause notice was given for varying the quantum of punishment and though the petitioner has filed detailed explanation on 03.04.1999, the same was not considered properly and the impugned orders have been passed removing him from service rather than confirming the earlier orders of compulsory retirement. The main submission made on behalf of the petitioner is that having regard to the long service put up by the petitioner and his correct date of birth is supported by Transfer Certificate, it can not be said that there is a suppression of fact on his behalf.

These submissions were sought to be repelled by the learned counsel appearing on behalf of the respondents herein.

Considering the submissions made and on perusal of the material, though several aspects are sought to be urged across the bar, including on factual side, however, the fact remains that the petitioner

could have as well availed the remedy of appeal to the first respondent herein. Without exhausting the said remedy, the petitioner has directly approached this court under Article 226 of the Constitution of India. In view of the same, it is not proper to delve into any of such questions without exhausting the alternative remedy available under law.

The Writ Petition is, accordingly, dismissed, with a liberty to the petitioner to file appeal before the first respondent herein within a period of eight weeks from today. On receipt of which the same shall be disposed of in accordance with law after giving notice and opportunity to the petitioner. No costs.

(B.Prakash Rao, J.)

19.01.2005

DRK/Chvn.

Copy in twoweeks.

B.O.

DRK.

Copy to:

1 Inspector General of Police, Central Reserve Police Force, Southern Sector, Banjara Hills, Hyderabad
2 Deputy Inspector General of Police, Central Reserve Police Force, Hyderabad
3 Addl. Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Hyderabad - 500 005.

4 Two CD copies.